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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

PETITION FOR RECONSIDERATION OF TELEMUNDO GROUP, INC.

Telemundo Group, Inc. ("Telemundo"), by its attorneys and pursuant to Section 1.106 of the Commission's Rules, petitions for reconsideration of certain limited aspects of the Fifth and Sixth Reports and Orders in the above-captioned proceeding. 1/

I. INTRODUCTION

Telemundo is one of the leading sources of Spanish-language news, information and entertainment for the nation's Hispanic population. It controls the licensees of seven full-power UHF television stations, one full-power VHF television

1/ Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order, FCC 97-116 (April 21, 1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Report and Order, FCC 97-115 (April 21, 1997).

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station, and 14 low power television stations ("LPTVs") and TV translators. 2/ It also is the parent of Telemundo Network, Inc., which produces 24 hours per day of Spanish-language programming for distribution to its owned stations and to 42 full-power television or LPTV affiliates in 26 markets across the country. Telemundo seeks reconsideration on two limited issues:

1. The need to adjust the DTV Table of Allotments to reflect the site change specified in KSTS's modification application filed July 11, 1996; and
2. LPTV Stations operating in Channels 61-69 should never be displaced due to reclamation of their channels to be auctioned or assigned for other non-broadcast services, unless the FCC can provide an alternate channel. 3/

II. THE COMMISSION SHOULD BASE THE DTV TABLE OF ALLOTMENTS ON KSTS'S PROPOSED MODIFIED FACILITIES.

On July 11, 1996, Telemundo of Northern California License Corporation ("TNCLC"), a wholly-owned subsidiary of Telemundo, filed an

2/ Telemundo controls the licensees of the following full-power television stations:

KVEA(TV), Channel 52, Corona, California
KSTS(TV), Channel 48, San Jose, California
WSNS(TV), Channel 44, Chicago, Illinois
WSCV(TV), Channel 51, Fort Lauderdale, Florida
KVDA(TV), Channel 60, San Antonio, Texas
KTMD(TV), Channel 48, Galveston, Texas
WNJU(TV), Channel 47, Linden, New Jersey
WKAQ-TV, Channel 2, San Juan, Puerto Rico

3/ Telemundo is filing separately a pleading in support of Sinclair Broadcasting Group, Inc.'s Petition for Reconsideration on issues not raised herein.

application to relocate the transmitter of Television Station KSTS, San Jose, California, from its current site at Monument Peak to Mt. Allison. See File No. BPCT-960711LC. This application, which is unopposed, was timely filed in advance of the July 25, 1996 release of the Sixth Further Notice of Proposed Rulemaking (FCC 96-317) in this proceeding. The DTV Table of Allotments, however, does not take KSTS's proposed relocation into account. Specifically, the DTV Table employs the coordinates of KSTS' current site atop Monument Peak at North Latitude 37°-29'-05" and West Longitude 121°-51'-51". However, on July 11, 1997, Telemundo filed an application to relocate the KSTS's facilities to a site atop Mount Allison, at North Latitude 37°-29'-57" and West Longitude 121°-52'-16".

Telemundo believes that the pending modification application, filed prior to the release of the Sixth Further Notice of Proposed Rulemaking in order to improve NTSC service to its viewers, should have been included in the NTSC database and taken into consideration in the DTV allotment process. TNCLC's July 11, 1996 application was filed in anticipation of the fast-approaching termination of its lease for the existing KSTS tower. More specifically, the entity that controls KSTS's tower site, the Alameda Park District, has informed Telemundo that it will not be able to renew its lease beyond December 31, 1998. The tower on which KSTS is located will be torn down after the expiration of KSTS's lease. Thus, there is no chance that the station will be able to continue to operate from its existing tower or site. As commenters in this proceeding have emphasized, applicants -- like Telemundo -- who timely filed modification applications in accordance with established FCC rules relied on the Commission's decision to permit modifications

of NTSC facilities, and would be unfairly prejudiced by a reversal of this decision and a delay in processing pending applications. 4/

The Commission's policy decision to ignore pending modification applications when drafting the DTV Table of Allotments has serious repercussions for KSTS. KSTS cannot stay at its current site because its lease will soon expire and the tower will be razed. Telemundo urges the Commission to revise the DTV Table to take into account KSTS's modification application, which specifies a new site. Based on information available to Telemundo, it appears that alternative channels are available which could be used to resolve the interference problems. 5/ If the DTV Table is not modified, KSTS will be in the anomalous position of having a DTV allotment where it no longer has a tower. And, its new tower site will have no DTV assignment. See Statement of Robert D. Weller, P.E., attached as Exhibit 1. The stark reality of the imminent termination of KSTS's lease and Telemundo's good-faith reliance on the Commission's prior policy toward modifications warrant reconsideration of the Commission's Table of Allotments to incorporate the alternative site for KSTS into the Commission's database. 6/

4/ See Sixth Report and Order at ¶ 110 (citing Comments of Pulitzer Broadcasting Company); see also Second Further Notice at ¶ 38.

5/ The interference caused by KSTS's modified NTSC operation on Channel 48 is due to the assignment of that channel to KCMY, Sacramento, California for DTV. According to MSTV, there are no fewer than nine other channels that could be assigned for KCMY's DTV operation. See <<http://www.mstv.org>>.

6/ Telemundo has not been able to conduct an analysis of other channels that may be available to KSTS due to the unavailability of OET Bulletin No. 69.

[Footnote continued]

III. LPTV STATIONS OPERATING IN CHANNELS 61-69 SHOULD NEVER BE DISPLACED DUE TO RECLAMATION OF THEIR CHANNELS TO BE AUCTIONED OR ASSIGNED FOR OTHER SERVICES UNLESS THE FCC CAN PROVIDE AN ALTERNATE CHANNEL.

To fulfill its public interest mandate to maximize service to the public and implement the principles underlying the DTV proceeding with consistency, the Commission should make three adjustments to its policy for low-power operations that will provide them with additional protection.

First, no broadcast service should be displaced by a non-broadcast service. And specifically, LPTV stations operating in Channels 61-69 should never be displaced due to reclamation of their channels to be auctioned or assigned for other services unless the FCC can provide an alternate channel. The Commission must weigh the very important service provided to Hispanic viewers by Telemundo's LPTV stations and the value of diversity against the spectrum efficiency concerns prompting the reclamation of Channels 61-69. As Petitioner and other commenters to the instant proceeding have demonstrated, LPTV service has a higher percentage of minority owners than any other broadcast service, and LPTV stations are often the only sources of minority-oriented or foreign-language

[Footnote continued]

Therefore, we respectfully request an additional 90 days after release of this bulletin in order to present alternative resolutions to KSTS's problems.

programming available to urban viewers. 7/ The concentration in cities of ethnic and minority communities, when combined with a shortage of alternative channels for relocation in congested urban areas, means that those groups will be inordinately disadvantaged by the Commission's new rules.

Second, any LPTV station displaced by a DTV station should be permitted to move to an unoccupied channel in the Channel 61-69 region until a core spectrum channel becomes available. 8/ Just as important, low power broadcasters serve rural communities which have been traditionally underserved. 9/

Adoption of these principles will further significant public policy objectives of the DTV proceeding without impeding the ultimate recovery of spectrum from Channels 61 to 69. Implementation of these two proposals will advance the public interest by promoting diversity of programming and media ownership, replication of service area, and efficient use of spectrum.

7/ See, e.g., Reply Comments of Telemundo Group, Inc., Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Further Notice of Proposed Rule Making, FCC 96-317 (filed Jan. 24, 1997) at 13-18.

8/ Displaced low-power stations may also apply for suitable replacement channels in the same area, without being subject to competing applications. Id. at ¶ 144.

9/ See An Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System, Notice of Inquiry, 68 F.C.C. 2d 1525 (1978) (low power television service designed to increase the diversity of programming to rural and urban areas).

IV. CONCLUSION

In view of the foregoing, Telemundo requests reconsideration of the above-captioned orders as described above.

Respectfully submitted,

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